IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01/08/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA
AND
THE HONOURABLE MR. JUSTICE F.M. IBRAHIM KALIFULLA

WRIT PETITION.NO.10271 OF 2001
and
W.P.M.P.NO.15518 OF 2003

Rosammal Memorial Minority
Teacher Training Institute
For Women, Tuticorin,
Rep. by its Educational Agency
and Correspondent V. Alexander .. Petitioner

-Vs-

1. Director of Government Examinations,
College Road,
Chennai 600 009.

2. The Director of Teacher Education
Research and Training,
College Road,
Madras 600 006.

3. The Principal,
District Institute of Teacher
Education, Vannarmutti,
Tuticorin.

4. V. Arockiamary
5. T.M. Kalpana
6. V. Bhagavathy
7. N.M. Pushpalatha
8. P. Banumathy
9. R. Suguna
10. Pavai
R-4 to R-10 impleaded as per
order dt. 17.4.2003 in
WPMP.No13989 of 2003. .. Respondents

Petition filed under Article 226 of the Constitution of India for the

issuance of Writ of Mandamus as stated therein.

For Petitioner : Mr.C.A. Diwakar

For Respondents 1-3 : Mr.S.T.S. Murthi
Special Govt. Pleader

For Respondents 4-10: Mr.N.G.R. Prasad for
Mr.T. Mohan

:O R D E R

The petitioner is a recognised minority teachers training institute. After many legal wranglings, the petitioner got temporary recognition under the National Council for Teacher Education Act, 1993 (hereinafter called as the Act). Such temporary recognition was extended from year to year till 2000 and thereafter the petitioner has been granted recognition without any limitation in time.

2. In the present writ petition, we are not concerned with the question of recognition and as the matter stands now, the petitioner institute continue to be a recognised institution.

3. The second respondent, the Director of Teacher Education Research and Training, Madras by its communication dated 9.9.1998 introduced a stipulation that out of total strength of 40 seats, 50% is to be filled up by the students from science stream, 25% from Arts and balance from vocational Stream. However, the petitioner had admitted 27 students from science stream for the academic year 1998-2000. Since 7 students admitted in excess of 20 stipulated by 2nd respondent, the Director of Government Examination, were not permitted to appear at the examination, the petitioner filed W.P.No.12314 of 2000 challenging the order dated 9.9.1998. During pendency of the said writ petition, the Government issued G.O.Ms.No.272 School Education Department) dated 7.8.2000 stipulating various conditions to be followed by the Government run teacher training institutes and minority private teachers training institutes, including the conditions relating to number of students to be admitted, mode of such selection and a direction to the institutes to submit a list of students to be admitted for approval by the first respondent. Said G.O., was challenged in W.P.No.16030 of 2000. Both the writ petitions were dismissed by common order dated 9.11.2000. Writ Appeal No.2365 of 2000 has been filed against the order relating to W.P.No.16030 of 2000 and Writ Appeal No.2366 of 200 0 has been filed against the order pertaining to W.P.No.12314 of 2000 .

4. In the meanwhile, the second respondent issued proceedings in Rc.No.2944/C2/2001 dated 27.4.2001 directing 3rd respondent to conduct internal assessment and practical examination for all the teacher training institutions including the minority teachers training institutions. W.P.No.10274 of 2001 has been filed by the petitioner for quashing the said proceedings.

5. Since the students admitted for the academic year 1999-2000 and 2000-2001 had not been permitted to appear at the examination for the year 2000-2001, by interim order dated 22.5.2001, this Court had permitted such students to appear at the examination in WPMP.No.14805 of 2001 arising out of W.P.No.10271 of 2001. WPMP.No.20071 of 2001 filed on behalf of the Director/Principal for vacating the interim order had been rejected by the High Court by order dated 18.1.2002.

6. W.P.No.16181 of 2002 has been filed by the petitioner for issuing writ of Mandamus directing the respondents to permit 40 students of the petitioner institute admitted during the academic year 2001-2003 to appear for the first year examination.

7. All these writ petitions, namely W.P.Nos.10271 , 10274 & 16181 of 2002 have been posted along with W.A.Nos.2365 and 2366 of 2000.

8. At present, we are confining the decision to W.P.No.10271 of 200 1 and the connected WPMP.No.15518 of 2003, which has been filed by 7 affected students, who pursuant to the interim direction of this Court have already appeared at the examination, but are yet to receive their certificates. The questions raised in the writ appeals and other two writ petitions relate to jurisdiction of the State Government/ Principal to issue orders relating to manner of selection. Even assuming that such instructions could have been issued and would be upheld ultimately in the connected writ appeals or the connected writ petitions, whether there is any jurisdiction to with-hold the certificates of the students who were admitted in excess of the quota fixed by the Government. We make it clear that we are confining the order only to this aspect and have not considered the validity of such instructions or orders which are left open to be decided in the two writ appeals and other writ petitions.

9. Learned counsel for the petitioner and the learned counsel for the affected students have contended that even assuming that the orders/instructions have been validly issued and the students had been admitted in contravention of such directions, there is no power to prevent such students from appearing at the examination and from receiving certificates, if they ultimately pass the examination.

10. For the aforesaid purpose, it is necessary to notice the provisions contained in Section 17 of the National Council of Teachers Education Act, 1993. The relevant provisions contained in Section 17, are quoted hereunder :-

 17. Contravention of provisions of the Act and consequences thereof : (1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of Section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing;

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution :

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1).

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) . . . (omitted as not relevant)

11. A perusal of Section 17(1) makes it clear that the Regional Committee has authority to withdraw the recognition of any recognised institution if it is satisfied that such institution has contravened any of the provisions contained in the Act or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under Section 14(3) or permission under Section 15(3) was granted.

Under Section 17(2), such order of withdrawal is required to be communicated to the institution and to be forwarded simultaneously to the University or the examining body, to which such institution was affiliated for cancelling affiliation.

The effect of withdrawal of recognition is contemplated under Section 17(3) of the Act which empowers the concerned University or the examining body to cancel the affiliation of the institution with effect from the end of the academic session next following the date of communication of the order under Section 17(1) read with 17(2) of the Act.

12. The above analysis of provisions contained in Section 17 makes it clear that even where there is withdrawal of recognition and affiliation is

cancelled, such cancellation does not take effect immediately. The intention is thus clear to protect the students.

13. Assuming that the directions issued by the Government/Director/ Principal were orders made or issued under the Act or the rules or the regulations, violation of such direction/order may invite action under Section 17(1) by the Regional Committee.

14. There is no dispute that no withdrawal has been effected under Section 17(1) of the Act and consequential cancellation of affiliation has been made under section 17(3). Even where such affiliation is cancelled, such cancellation is to take effect from the end of the academic session next following the date of the communication of the order under Section 17(1). Therefore, proceeding on the assumption that the action of the Government/Director/Principal in issuing various directions/instructions were valid and there was violation of such orders, the only consequence is contemplated under Section 17(1) and the consequential cancellation under Section 17(3). Since there is no withdrawal of recognition and no order of cancellation of affiliation, there is no jurisdiction to with-hold publication of the result or issuance of certificate for the academic years prior to any such cancellation. This is evident from a combined reading of Section 17(1) and 17(3) of the Act.

15. For the aforesaid reasons, we allow W.P.No.10271 of 2001 to the limited extent that the students who had been admitted in excess of the quota during the academic year 1999-2000 and 2000-2001 shall be issued diploma teacher training certificates provided they had passed their examination. It is made clear that all other questions raised in this writ petition as well as other two writ petitions and writ appeals have been left over to be decided at the appropriate stage.

16. The Writ Petition No.10271 of 2001 is disposed of along with the WPMP.No.15518 of 2003. No costs.

Index : Yes
Internet : Yes

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To

1. Director of Government Examinations,
College Road,
Chennai 600 009.

2. The Director of Teacher Education
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Madras 600 006.

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